

**CITY OF AUSTIN
Board of Adjustment
Decision Sheet**

DATE: Monday March 12, 2018

CASE NUMBER: C15-2018-0009

_____ Brooke Bailey
 _____ William Burkhardt
 _____ Christopher Covo (OUT)
 _____ Eric Goff
 _____ Melissa Hawthorne
 _____ Bryan King
 _____ Don Leighton-Burwell
 _____ Rahm McDaniel
 _____ Veronica Rivera
 _____ James Valadez
 _____ Michael Von Ohlen
 _____ Kelly Blume (Alternate)
 _____ Martha Gonzalez (Alternate)
 _____ Pim Mayo (Alternate)

APPLICANT: David Cancialosi

OWNER: Phillip Cameron

ADDRESS: 6705 PIXIE CV

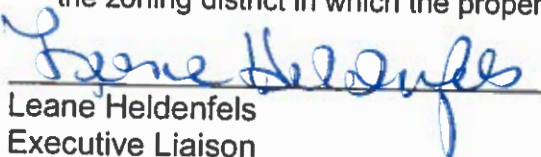
VARIANCE REQUESTED: The applicant has requested variance(s) to Section 25-2-551 (Lake Austin District Regulations) (C) (3) (a) to increase the maximum impervious cover on a slope with a gradient of 15 percent or less from 35 percent or 3,814 square feet (required, permitted) to 50 percent or 5,450 square feet (requested, 53.1 percent or 5,792 square feet existing) in order to reconstruct a single family residence and covered patio area and add a swimming pool in a "LA", Lake Austin zoning district.

Note: This section of the Land Development Code applies to lots that are included in a subdivision plat recorded before April 22, 1982 or on a tract that is not required to be platted.

BOARD'S DECISION: March 12, 2018 POSTPONED TO APRIL 9, 2018

FINDING:

1. The Zoning regulations applicable to the property do not allow for a reasonable use because:
2. (a) The hardship for which the variance is requested is unique to the property in that:
(b) The hardship is not general to the area in which the property is located because:
3. The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:


 Leane Heldenfels
 Executive Liaison


 William Burkhardt
 Chairman

From the office of:

PERMIT PARTNERS, LLC
105 W. Riverside Dr. Suite 225
Austin, Texas 78704
David C. Cancialosi
512.593.5368 c.
512.494.4561 f.
david@permit-partners.com

March 12, 2018

RE: BOA request for 6705 Pixie Cove

Board of Adjustment Commissioners:

We are seeking three variances as follows:

1. Section 25-2-551(B)(1)(b) to maintain an existing shoreline setback of 14' 6" Shoreline setback from an existing cut in boat slip.
2. Section 25-2-492(d) to maintain an existing 4' 10" side yard setback.
3. Section 25-2-551-C-3-A to reduce the impervious coverage from 56% to 52.5% in a 0-15% slope.

The residential project was initiated in 1962 with the platting of the subdivision. The home was built in 1981 pursuant to the AA zoning district standards. The property was rezoned in late 1984 to LA after the adoption of the new zoning code. The subject project was built in compliance with AA *First Height and Residential* zoning which allowed 45% (gross site area) impervious coverage of gross lot area under zoning Chapter 13-2. Thus, it is worth noting that the application of LA zoning's net-site area calculations do not present a true representation of the proposed IC reduction. From a gross lot area perspective, which was the legally correct way to calculate the coverage in 1981, the coverage was (and is) 7,592 SF, or 48% IC. The proposed gross lot area coverage would be reduced to 5,843 SF, or 36.9%, resulting in an 11% gross lot reduction.

A property owner is entitled to a reasonable use of the property. The house is 37 years old and in need of replacement. The property owner desires to replace the structure with a superior product that will reduce the impervious coverage and run-off into the Lake Austin. The site was zoned AA then rezoned LA by the City as part of a mass zoning exercise that few property owners understood the implications of. That rezoning effort now prohibits the lot from being developed in a fair and reasonable manner, thus, any reasonable redevelopment is significantly hampered by strict application of the LA zoning performance standards.

The applicant has requested administrative approval from Development Services, however, staff is unable to provide relief other than allowing the reconstruction to occur only in the same footprint as the original 1981 construction. While certain LDC provisions assist some projects with achieving administrative remedy, unfortunately, the LDC is not a one size fits all remedy. The requested variances help bridge that gap.

The hardship for the site exists in several facets:

- 1) The site was built in accordance with AA zoning in place at the time of construction.
- 2) The site currently exceeds the 35% impervious coverage allowance outlined in LDC 25-2-551-C-3-A, which limits 0-15% slopes to a maximum of 35% impervious coverage, but have seemingly not been an issue for the city or neighbors for 37 years.
- 3) The current regulations require net site area be calculated which removes the rear 25' shoreline area from the platted lot area. This reduces the available lot area from 15,805 SF to a net site area of 9,380 SF – over 5,000 SF of non-inundated, county-taxable land area is lost as a result of the application of current code.

- 4) The lot is an irregular shaped lot taking access from a cul-de-sac.
- 5) The lot is less than one acre in size.
- 6) The lot has less than 100' width.

All the aforementioned are non-compliant with the LA zoning performance standards which were placed on the lot by the City in 1984 - approximately three years after the house was constructed.

In terms of reasonable use, throughout the lake austin area there are many sites that were zoned SF-2 at the time of LA zoning application by the City by either the City's choosing or the owner's request. Because this site does not meet the basic lot size requirements of LA zoning performance standards it should have been zoned SF-2 in 1984. The site was built in compliance with the rules in place at the time of construction yet was arbitrarily changed via LA zoning by the city. Thus, due to that application of LA zoning over thirty years ago, the current property owner must now seek remedy via the Board of Adjustments or other available avenues in order to allow the repair and replacement of the existing structure in a reasonable manner consistent with other properties zoned either LA which have received similar relief from the Board of Adjustments or properties which were correctly applied SF-2 at the time of the mass zoning exercise in the 1980's.

To that end, the house was constructed under AA zoning prior to March 1, 1984 the LA zoning was applied after construction, *the site is legal complying and is afforded certain rights with respect to allowing structures built prior to March 1984 to be built entirely anew as they existed at the time they were built even if that would not meet today's site development regulations.* This is not an insignificant property right since the code significantly limits the extent to which a post-March 1984 structure can be modified. However, the current code as interpreted by existing staff only allows the replacement of the house if it is placed *on the exact same footprint* and does not allow credit for any impervious cover removed or relocated.

In sum, the proposed replacement structure would reduce the impervious coverage and reflect a contemporary home with better site controls with respect to run off, tree protection, and if this request is approved, ultimately an entire replacement of the non-compliant 90 degree bulkhead with a new, code compliant wall that properly mitigates wave abatement and soil erosion. The replacement house will have no adverse impact on the surrounding properties and will match the architectural style found throughout the neighborhood.

We ask the Commission take into consideration these changes and approve the requested variances.

Sincerely,



David C. Cancialosi, Agent for Owner

Cc: Terry Irion, Phillip Cameron



REVISED

004/4

CITY OF AUSTIN**Development Services Department**

One Texas Center | Phone: 512.978.4000

505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment General/Parking Variance Application

WARNING: Filing of this appeal stops all affected construction activity.

This application is a fillable PDF that can be completed electronically. To ensure your information is saved, [click here to Save](#) the form to your computer, then open your copy and continue.

The Tab key may be used to navigate to each field; Shift + Tab moves to the previous field. The Enter key activates links, emails, and buttons. Use the Up & Down Arrow keys to scroll through drop-down lists and check boxes, and hit Enter to make a selection.

The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____	ROW # _____	Tax # _____
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Section 1: Applicant StatementStreet Address: 6705 PIXIE CV, Austin, TX 78746

Subdivision Legal Description:

LOT 57 BLK A RIVERCREST ADDN SEC 2Lot(s): 58 Block(s): A

Outlot: _____ Division: _____

Zoning District: LA

I/We David Cancialosi on behalf of myself/ourselves as
authorized agent for Phillip Cameron affirm that on
Feb Select, 1 Select, Select, hereby apply for a hearing before the
2018

Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ X Remodel ☒ X Maintain ☐ Other: _____

Type of Structure: Residential

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

LDC 25-2-551-C-3-A to reduce the IC from 56% to 52.5% IC in a 0-15% slope.

LDC 25-2-492-D to maintain a 4' 10" setback into the side property line.

LDC 25-2-551-B-1-B to maintain a 14' 6" setback in the shoreline setback on the southern side of the property parallel to the Lake Austin channel.

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:
SEE ATTACHED

Hardship

a) The hardship for which the variance is requested is unique to the property in that:

SEE ATTACHED

b) The hardship is not general to the area in which the property is located because:

SEE ATTACHED

Area Character

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

SEE ATTACHED

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Applicant Signature:  Date: 3/14/2018

Applicant Name (typed or printed): Philip Cameron

Applicant Mailing Address: 2445 Westlake Dr.

City: Austin State: TX Zip: 78746

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature:  Date: 3/14/18

Owner Name (typed or printed): Philip Cameron

Owner Mailing Address: 2445 Westlake Dr.

City: Austin State: TX Zip: 78746

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: David Cancialosi, Permit Partners

Agent Mailing Address: 105 W Riverside Dr. #225

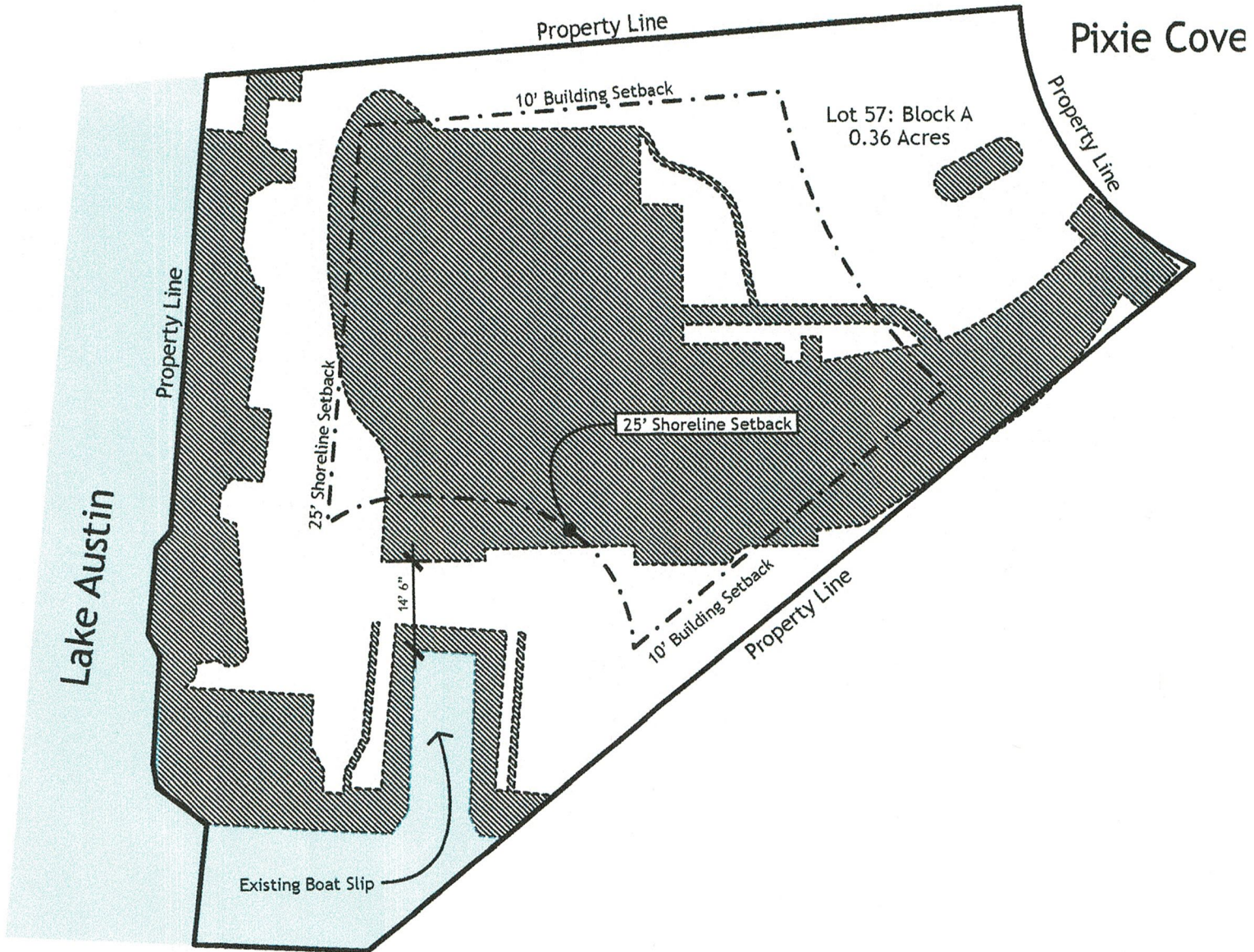
City: Austin State: TX Zip: 78704

Phone (will be public information): (512) 593-5361

Email (optional – will be public information): david@permit-partners.com

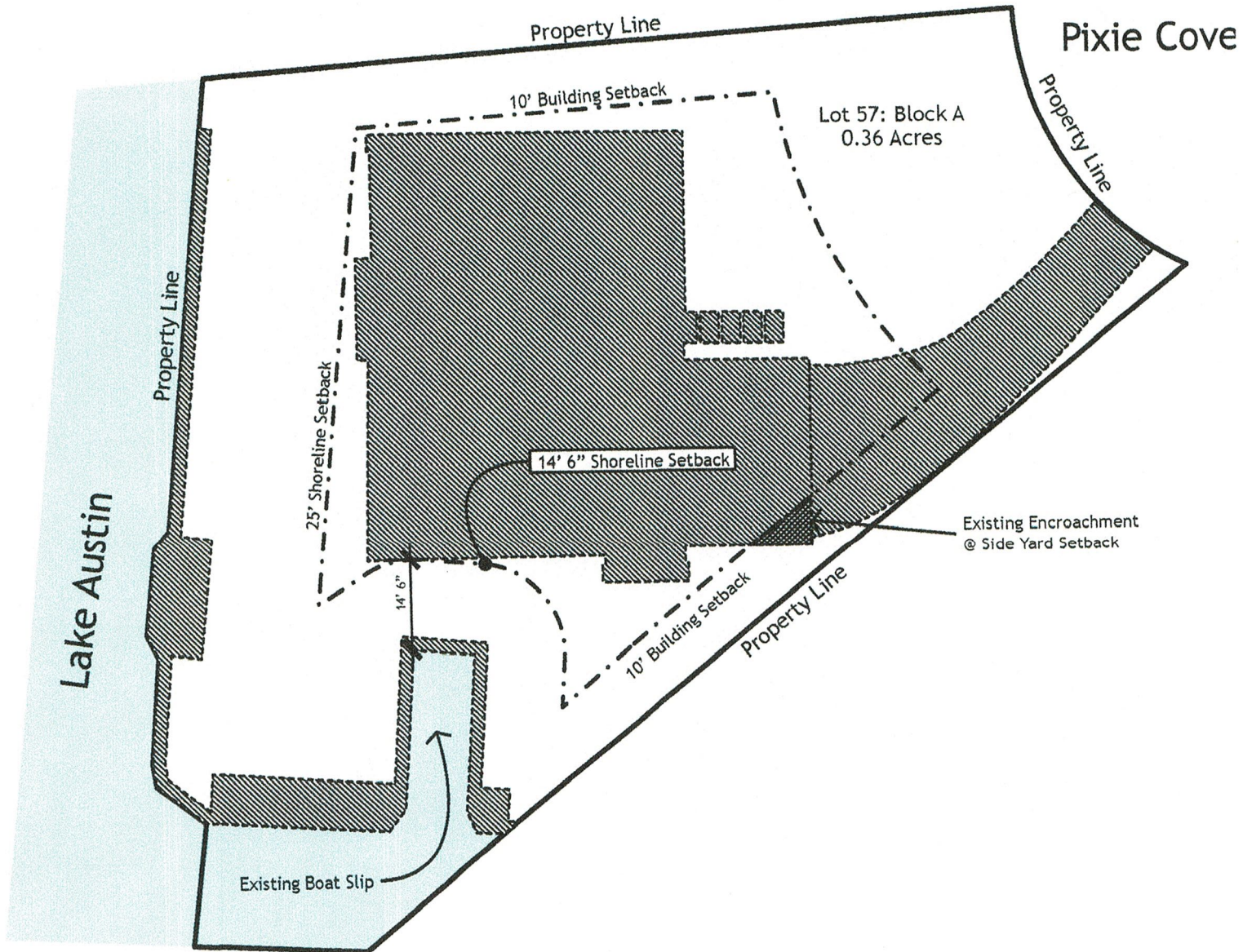
Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).



Impervious Cover Based on Net Site Area:	
Gross Lot Area:	15,805 sf
Net Site Area:	9,625 sf
Existing Impervious Cover:	5,398 sf
Existing Impervious Cover Percentage:	56.0%





Impervious Cover Based on Net Site Area:	
Gross Lot Area:	15,805 sf
Net Site Area:	10,405 sf
Proposed Impervious Cover:	5,450 sf
Proposed Impervious Cover Percentage:	52.5%

6705 Pixie Cove, Austin TX
Proposed Modifications



WINN WITTMAN ARCHITECTURE



SUBJECT TRACT



PENDING CASE



ZONING BOUNDARY

NOTIFICATIONS

CASE#: C15-2018-0009
LOCATION: 6705 Pixie Cove



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.

1" = 218'

original

004/11

From the office of:

PERMIT PARTNERS, LLC
105 W. Riverside Dr. Suite 225
Austin, Texas 78704
David C. Cancialosi
512.593.5368 c.
512.494.4561 f.

FILE COPY

February 12, 2018

RE: BOA request for 6705 Pixie Cove

Board of Adjustment Commissioners:

We are seeking a variance to allow 5,450 SF of impervious coverage (50% of the net site area) on this lot platted in 1962 as part of the Rivercrest Subdivision. This is a reduction from the existing impervious coverage of 5,792 SF (53.1%). The majority of the reconstruction is within the same footprint of exiting IC footprint.

The residential project was initiated in 1962 with the platting of the subdivision. The home was built in 1981 pursuant to the AA zoning district standards. The property was rezoned in late 1984 to LA after the adoption of the new zoning code. The subject project was built in compliance with AA *First Height and Residential* zoning which allowed 45% (gross site area) impervious coverage of gross lot area under zoning chapter 13-2. The house is now over 30 years old and in need of replacement. The property owner desires to replace the structure with a superior product that will not exceed the existing impervious coverage on the lot. The property owner is entitled to a reasonable use of the property which was zoned AA then rezoned LA and turned into a non-compliant status by the city of Austin after the house was constructed. The platted lot is less than 1 acre, the lot has less than 100' of lot width at the ROW, and the lot cannot be developed under current LA zoning in a fair and reasonable manner consistent with the market price of the lots in and along Lake Austin.

The applicant has requested administrative approval from Development Services, however, staff is unable to provide relief other than allowing the reconstruction to occur only in the same footprint as the original 1982 construction. While certain LDC provisions do help some projects achieve administrative remedy, unfortunately the LDC is not a one size fits all remedy. The owner simply wants to build a new house on an undersized lot while reducing the impervious cover. This roughly 342 SF reduction in impervious coverage will be achieved by demolishing the existing house and foundation, picking up the existing impervious coverage and moving it around, and redeveloping the site in a manner that will result in a far superior project than what currently exists.

The hardship for the site exists in several facets. As stated, the site was built in accordance with AA zoning in place at the time of construction. The site currently exceeds the 35% impervious coverage allowance outlined in LDC 25-2-551-C-3-A, which limits 0-15% slopes to a maximum of 35% impervious coverage. The current regulations also require net site area be calculated which removes the rear 25' shoreline area from the platted lot area. This reduces the available lot area from 15,805 SF to a net site area of 10,898 SF – over 5,000 SF of non-inundated, county-taxable land area is lost as a result of the application of current code. The lot is an irregular shaped lot taking access from a cul-de-sac. The lot is less than one acre in size and has less than 100' width. All the aforementioned of which are non-compliant with the LA zoning performance standards placed on the lot by the City in 1984 approximately three years after the house was constructed. Throughout the lake Austin area there are many sites that were zoned SF-2 at the time of LA zoning application by the City. Because this site does not meet the basic lot size requirements it should have been zoned SF-2 in 1984. Due to that misapplication of LA zoning, the property owner must now seek remedy via the Board of Adjustments or other available avenues in order to allow the repair and replacement of the existing structure.

To that end, the house was constructed under AA zoning prior to March 1, 1984 the LA zoning was applied after construction, *the site is legal complying and is afforded certain rights with respect to allowing structures built*

prior to March 1984 to be built entirely anew as they existed at the time they were built even if that would not meet today's site development regulations. This is not an insignificant property right since the code significantly limits the extent to which a post-March 1984 structure can be modified. However, the current code as interpreted by existing staff only allows the replacement of the house if it is placed on the exact same footprint and does not allow credit for any impervious cover removed or relocated.

In sum, the proposed replacement structure would reduce the impervious coverage and reflect a contemporary home with better site controls with respect to run off, tree protection, and if this request is approved, ultimately an entire replacement of the non-compliant 90 degree bulkhead with a new, code compliant wall that properly mitigates wave abatement and soil erosion. The replacement house will have no adverse impact on the surrounding properties and will match the architectural style found throughout the neighborhood.

We ask the Commission take into consideration these changes and approve the requested variances.

Sincerely,



David C. Cancialosi, Agent for Owner

Cc: Terry Irion, Phillip Cameron



CITY OF AUSTIN

Development Services Department

One Texas Center | Phone: 512.978.4000
505 Barton Springs Road, Austin, Texas 78704

Board of Adjustment General/Parking Variance Application

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The application must be complete and accurate prior to submittal. ***If more space is required, please complete Section 6 as needed.*** All information is required (if applicable).

For Office Use Only

Case # _____ ROW # _____ Tax # _____

Section 1: Applicant Statement

Street Address: 6705 PIXIE CV, Austin, TX 78746

Subdivision Legal Description:

LOT 57 BLK A RIVERCREST ADDN SEC 2

Lot(s): 58 Block(s): A

Outlot: _____ Division: _____

Zoning District: LA

I/We David Cancialosi on behalf of myself/ourselves as
authorized agent for Phillip Cameron affirm that on
Feb Select , 1 Select , Select , hereby apply for a hearing before the
2018

Board of Adjustment for consideration to (select appropriate option below):

☐ Erect ☐ Attach ☐ Complete ☐ X Remodel ☐ Maintain ☐ Other: _____

Type of Structure: Single Family Residential

Area Character

The variance will not alter the character of the area adjacent to the property, will not impair the use of adjacent conforming property, and will not impair the purpose of the regulations of the zoning district in which the property is located because:

SEE ATTACHED

Parking (additional criteria for parking variances only)

Request for a parking variance requires the Board to make additional findings. The Board may grant a variance to a regulation prescribed in the City of Austin Land Development Code Chapter 25-6, Appendix A with respect to the number of off-street parking spaces or loading facilities required if it makes findings of fact that the following additional circumstances also apply:

1. Neither present nor anticipated future traffic volumes generated by the use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specific regulation because:

2. The granting of this variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic of the streets because:

3. The granting of this variance will not create a safety hazard or any other condition inconsistent with the objectives of this Ordinance because:

4. The variance will run with the use or uses to which it pertains and shall not run with the site because:

Section 3: Applicant Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

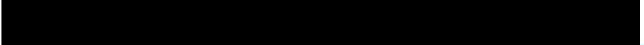
Applicant Signature:  Date: 02/12/18

Applicant Name (typed or printed): David Cancialosi

Applicant Mailing Address: 105 W Riverside Dr. #225

City: Austin State: TX Zip: 78704

Phone (will be public information): _____

Email (optional – will be public information): 

Section 4: Owner Certificate

I affirm that my statements contained in the complete application are true and correct to the best of my knowledge and belief.

Owner Signature:  Date: February 9, 2018

Owner Name (typed or printed): Philip Cameron

Owner Mailing Address: 2445 Westlake Dr.

City: Austin State: TX Zip: 78746

Phone (will be public information): _____

Email (optional – will be public information): _____

Section 5: Agent Information

Agent Name: David Cancialosi, Permit Partners

Agent Mailing Address: 105 W Riverside Dr. #225

City: Austin State: TX Zip: 78704

Phone (will be public information): (512) 593-5361

Email (optional – will be public information): 

Section 6: Additional Space (if applicable)

Please use the space below to provide additional information as needed. To ensure the information is referenced to the proper item, include the Section and Field names as well (continued on next page).

Portion of the City of Austin Land Development Code applicant is seeking a variance from:

LDC 25-2-551-C-3-A to allow 50.0% IC on a slope 0-15% within LA Zoning. Reducing existing IC from 53.1% to 50%, or 5,792 SF to 5,450 SF.

Section 2: Variance Findings

The Board must determine the existence of, sufficiency of, and weight of evidence supporting the findings described below. Therefore, you must complete each of the applicable Findings Statements as part of your application. Failure to do so may result in your application being rejected as incomplete. Please attach any additional supporting documents.

NOTE: The Board cannot grant a variance that would provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

I contend that my entitlement to the requested variance is based on the following findings:

Reasonable Use

The zoning regulations applicable to the property do not allow for a reasonable use because:
SEE ATTACHED

Hardship

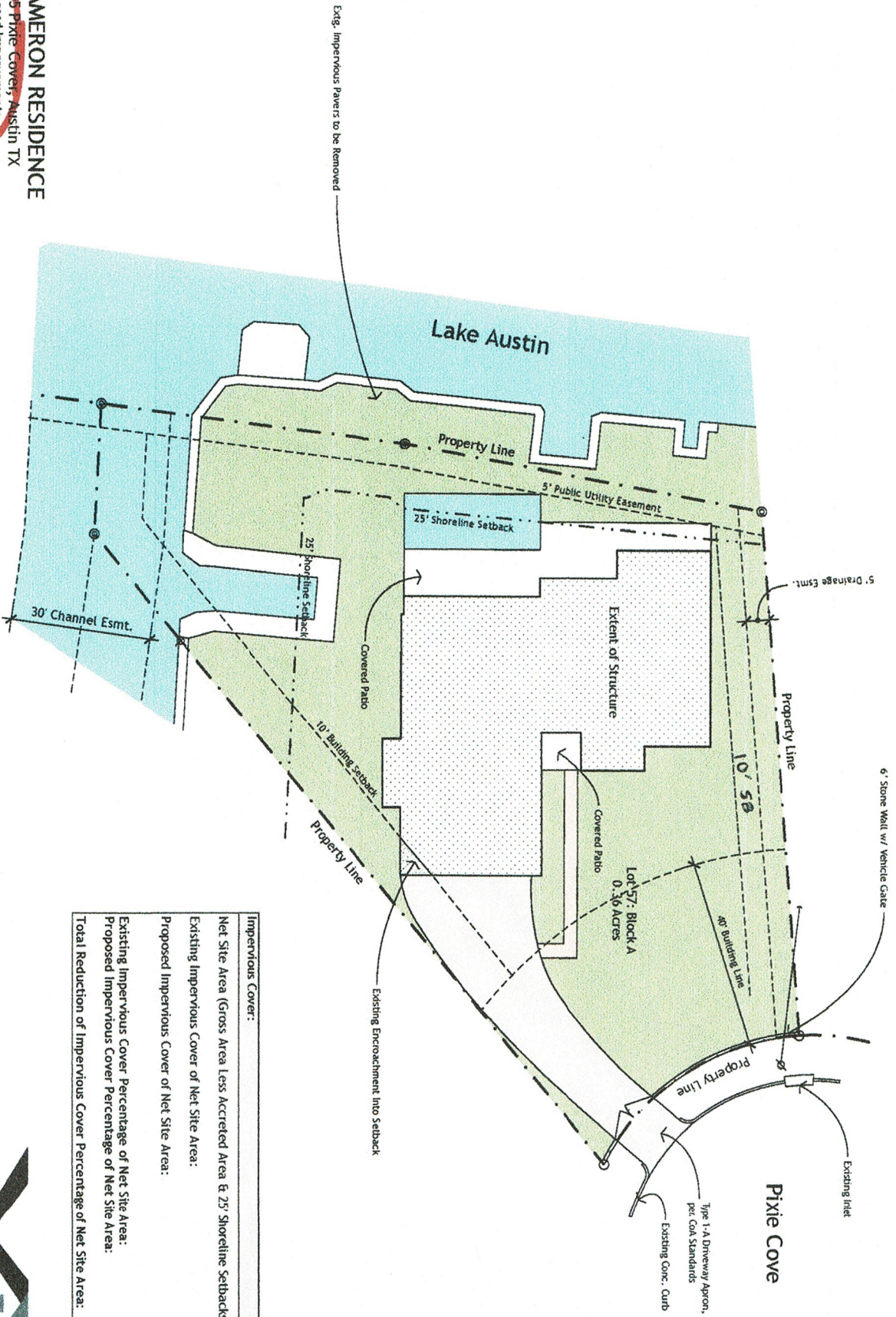
a) The hardship for which the variance is requested is unique to the property in that:

SEE ATTACHED

b) The hardship is not general to the area in which the property is located because:

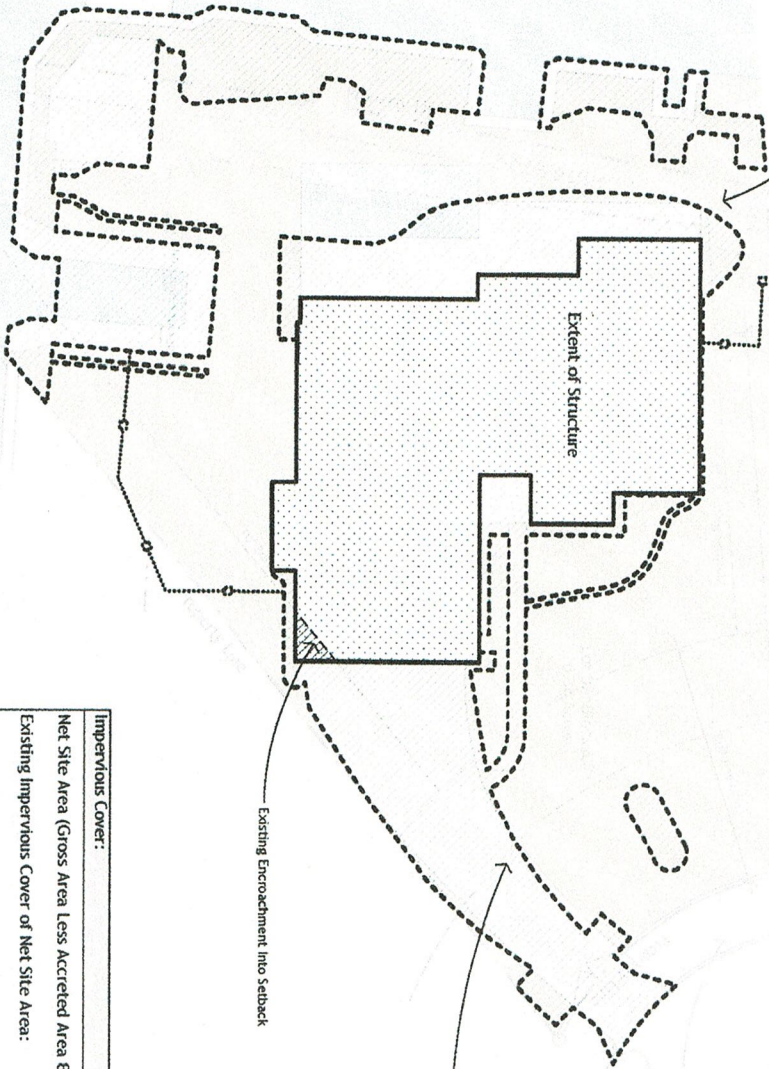
SEE ATTACHED

CAMERON RESIDENCE
 6705 Pixie Cove, Austin TX
 Proposed Improvements
 12' = 20' 0"
 02.12.18



Impervious Cover:	
Net Site Area (Gross Area Less Accreted Area & 25' Shoreline Setbacks):	10,898 sf
Existing Impervious Cover of Net Site Area:	5,792 sf
Proposed Impervious Cover of Net Site Area:	5,450 sf
Existing Impervious Cover Percentage of Net Site Area:	53.1%
Proposed Impervious Cover Percentage of Net Site Area:	50.0%
Total Reduction of Impervious Cover Percentage of Net Site Area:	-3.1%

Area Between Property Lines and 25' Shoreline Setback
Excluded From Impervious Cover Calculations



Impervious Cover:	
Net Site Area (Gross Area Less Accreted Area & 25' Shoreline Setbacks):	10,898 sf
Existing Impervious Cover of Net Site Area:	5,792 sf
Proposed Impervious Cover of Net Site Area:	5,450 sf
Existing Impervious Cover Percentage of Net Site Area:	53.1%
Proposed Impervious Cover Percentage of Net Site Area:	50.0%
Total Reduction of Impervious Cover Percentage of Net Site Area:	-3.1%

CAMERON RESIDENCE

6705 Pixie Cove, Austin TX
Existing vs. Proposed
1" = 20' 0"
02-12-18

From: [REDACTED]
Subject: Re: Orig pdf of 6705 Pixie Cove case info
Date: Thursday, March 01, 2018 12:28:04 PM

Leanne,

There are some last minute amendments that are needed to this application. I need to postpone the case one time to the April 9 agenda.

Please confirm.

Kind Regards,
DC

Sent from a mobile device. There will be typos.

On Feb 27, 2018, at 4:47 PM, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:

Sounds good – thanks

Leane

From: david cancelosi [REDACTED]
Sent: Tuesday, February 27, 2018 4:40 PM
To: Heldenfels, Leane
Cc: Kasey Jaegers
Subject: Re: Orig pdf of 6705 Pixie Cove case info

Leanne,

Kasey can scan PDF's to you tomorrow morning if that's ok?

Kind Regards,
DC

Sent from a mobile device. There will be typos.

On Feb 27, 2018, at 4:05 PM, Heldenfels, Leane <Leane.Heldenfels@austintexas.gov> wrote:

Hi David – I just have a paper copy of the application, can you reply and attach your pdf version of everything. The electronic packet board members prefer original pdfs to the ones I can make via our copies – say the origs have better resolution, etc.

Thanks –